



SENATE BUDGET AND TAXATION COMMITTEE
Procurement Subcommittee
Senate Bill 453
State Contracts – Prohibited Provisions
February 5, 2025
Favorable

Chair Benson and members of the subcommittee, thank you for allowing the University System of Maryland (USM) the opportunity to offer testimony on Senate Bill 453.

The USM is comprised of twelve distinguished institutions, and three regional centers. We award eight out of every ten bachelor's degrees in the State. Each of University USM's 12 institutions has a distinct and unique approach to the mission of educating students and promoting the economic, intellectual, and cultural growth of its surrounding community. These institutions are located throughout the state, from Western Maryland to the Eastern Shore, with the flagship campus in the Washington suburbs. The USM includes three Historically Black Institutions, comprehensive institutions and research universities, and the country's largest public online institution.

Last year, the General Assembly passed legislation addressing prohibitions pertaining to liability limitations on state contracts for damage to real or tangible personal property. Senate Bill 453 makes two technical corrections – minor changes – to clarify the intent and purpose of 2024's Senate Bill 375.

First, Senate Bill 453 clarifies the claims to which a limitation of liability in a State contract would not apply. The bill makes clear that property is limited to real property or tangible personal property. Without this clarification, property could be interpreted broadly to include, for example, software systems or data. This would mean that contractors would have to manage the risks associated with unlimited liability for damage to higher-risk property, such as software systems or data.

Second, the bill clarifies that State contracts may not include a provision that limits the State's ability to recover the difference in the cost of the replacement contractor to perform the services not performed by the original contractor, but only to the extent the cost exceeds what was to be paid to the original contractor to perform such services. Without this clarification, the language may be interpreted to allow the State to seek the entire cost of a replacement contractor, regardless of whether the original contractor had performed any of the services and regardless of whether the cost of the replacement contractor was less than or equal to the costs provided for in the contract with the original contractor.

The USM urges a Favorable Report on Senate Bill 453 as the USM works to streamline the contracting process, reduce the time staff spends on negotiating small dollar agreements, and mitigate the risk of potential litigation by ensuring that contract terms do not impact state agreements.



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